

REMARKS

By this amendment, claims 1-8 are pending, in which no claim is canceled, withdrawn, currently amended, or newly presented. No new matter is introduced.

The final Office Action mailed June 19, 2006 rejected claims 1-8 under 35 U.S.C. § 102(b) as anticipated by *Shishido et al.* (JP 2002-093115).

Regarding the § 102(b) rejection, Applicant respectfully traverses on the merits as the interpretation of the reference adopted by the Examiner is in error. Further, the Examiner's rejection neglects the context of the pending claim terms and even ignores certain claimed features.

Independent claims 1 and 4 recite, "**a base chassis** for holding a motor is **mounted on a case** of said optical disk device **through a first elastic body**, and **a second elastic body** for supporting a counterweight constituting said dynamic vibration absorber on said base chassis, wherein said second elastic body is **integrally formed** with said first elastic body into a single body." Independent claim 6 recites, "**a first elastic body disposed between a case** of the disk device **and a base chassis; and a second elastic body** for supporting a counterweight, wherein the second elastic body is **integrally formed** with the first elastic body into a single body."

The Office Action, on pages 2-3, applies *Shishido et al.* to satisfy the above features, asserting the following (Emphasis Added):

As per claims 1 and 6, Shishido et al shows in figures 1 and 3 a dynamic vibration absorber for an optical disk device including a base chassis 14 for holding a motor 40 **mounted on a case** of the optical disk device **through a first elastic body 13E**. Shishido also shows in figures 1 and 3 **a second elastic body 13C** for supporting a counterweight 12 constituting the dynamic vibration absorber on the base chassis 14. The second elastic body 13C is integrally formed with the first elastic body 13E into a single body 13.

The fundamental fault within the Examiner's analysis is that portions 13E and 13C of elastic body 13 cannot be reasonably interpreted as respective first and second elastic bodies.

Moreover, the rejection neglects the context of the pending claims terms, i.e., the function that the claimed first elastic body serves, and entirely ignores certain claimed features, i.e., “**mounted on a case of said optical disk device**” or “**disposed between a case of the disk device and a base chassis.**” Perhaps in recognition of this, the Examiner conveniently fails to cite label numbers for claim features not disclosed within *Shishido et al.* At best, *Shishido et al.* reveals a driving device for an information recording medium D containing a motor 40 and an optical unit 50 in which the operability of the device is improved when a dynamic vibration absorber 11, having weight 12, is mounted on a chassis 14 of the device’s traverse mechanism 10a through **four individual elastic bodies 13.**

Specifically, *Shishido et al.* discloses, on page 4, paragraph [0018], that elastic bodies 13 are comprised of crevice portion 13F, two lobe portions 13C, 13D, adhesion section 13E, and centrum through-hole 13G. Analyzing one corner 13A of weight 12, crevice portion 13F accepts hole portion 13B of weight 12. Accordingly, lobe portions 13C, 13D act on respective upper and lower faces of weight 12 to ensure a fixed connection between elastic body 13 and weight 12. Further, adhesion section 13E of elastic body 13 is “stuck” to a top-face 14F of chassis 14 such that centrum through-hole 13G aligns with threaded through-hole 74 of chassis 14. In this manner, *Shishido et al.* reveals, within paragraph [0019], that screw 15 is inserted through centrum through-hole 13G of elastic body 13. As such, threaded portion 15B of screw 15 is “screwed” into threaded through-hole 74 thereby ensuring weight 12 is “certainly attached” to chassis 14. In this regard, weight 12 is coupled to chassis 14 through elastic body 13, or in the alternative, elastic body 13 supports weight 12 atop chassis 14, (*see also* Fig. 3).

As such, well-settled case-law holds that the words of a claim must be read as they would be interpreted by those of ordinary skill in the art. *In re Baker Hughes, Inc.*, 215 F.3d 1297, 55 USPQ2d 1149 (Fed. Cir. 2000); *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027

(Fed. Cir. 1997); M.P.E.P. § 2111.01. Moreover, “although the PTO must give claims their broadest possible reasonable interpretation, this interpretation must be consistent with the one that those skilled in the art would reach.” *In re Cortright*, 165 F.3d 1353, 1369, 49 USPQ2d 1464, 1465 (Fed. Cir. 1999). Accordingly, one of ordinary skill in the art would reasonably understand the arrangement disclosed above as the “**second elastic body for supporting a counterweight** constituting said dynamic vibration absorber **on said base chassis**” of the claimed invention. However, this is contrary to the Examiner’s overreaching interpretation equating a single portion of elastic body 13, i.e., lobe portion 13C, as the claimed second elastic body.

Furthermore, the Examiner’s unreasonable interpretation left him searching for a disclosure teaching “**a base chassis** for holding a motor is **mounted on a case** of said optical disk device **through a first elastic body**.” In a hasty, unfounded mess, the Examiner equates adhesion section 13E of elastic body 13 to meet the claimed first elastic body. As a result, the rejection totally neglects the context in which the claimed first elastic body is taught, i.e., as a mount **between a base chassis and a case**, revealing a total lack of appreciation for what the claims truly embody.

Caught in a quandary, the Examiner, instead of relying on the facts as supported by *Shishido et al.*, asserts that “base chassis 14 for holding a motor 40 [is] **mounted on a case** of the optical disk device **through a first elastic body 13E**.” Not surprisingly, the Examiner conveniently leaves out a label number for “a case” perhaps because *Shishido et al.* fails to disclose any such case. As a result, the Examiner effectively ignores the claimed features of “a base chassis for holding a motor **is mounted on a case**” within claims 1 and 4, and “disposed **between a case** of the disk device and a base chassis” within claim 6. This is impermissible as it is improper to ignore qualifiers in the claim terms. *See Apple Computer, Inc. v. Articulate*

Systems, Inc., 234 F.3d 14 (Fed. Cir. 2000) (holding that the district court “cannot read the qualifier ‘help’ out of the definition of ‘help access window’”).

The fact remains that *Shishido et al.* explicitly discloses an elastic body 13 comprised of several portions defining various boundaries of an individual entity. Subsequently, one of ordinary skill in the art would reasonably construe elastic body 13 as the claimed second elastic body of the present invention. However, in no certain terms can *Shishido et al.* be reasonably construed to support the Examiner’s erroneous reading of the reference equating portion 13E as a first elastic body and portion 13C as a second elastic body. Moreover, through-holes 72 are provided for coupling chassis 14 to another structure that is not described. In this regard, *Shishido et al.*, more likely than not, embodies a conventional optical disk device of the type illustrated in Fig. 4 of the present invention and taught away from on pages 1-2 of the Specification. Therefore, *Shishido et al.* fails to teach the positively claimed, integrally formed, first and second elastic bodies.

As anticipation under 35 U.S.C. § 102(b) requires that each and every element of the claim be disclosed in a prior art reference, based on the foregoing, it is clear that *Shishido et al.* fails to anticipate independent claims 1, 4, and 6. Accordingly, these independent claims, along with claims 2, 3, 5, 7, and 8, depending correspondingly therefrom, are in condition for allowance.

Moreover, dependent claims 2, 3, 5, 7, and 8 are allowable on their own merits. For example, dependent claim 5 recites, “wherein said first elastic body and said second elastic body comprise either the same or different thermosetting elastic rubber or thermoplastic elastomer materials.” The Examiner asserts, on page 3 of the Office Action, that “*Shishido et al.* discloses a first elastic body 13E and a second elastic body 13C including the same thermosetting elastic rubber or elastomer materials.” Note, the Examiner again conveniently ignores clam terms (this

time ignoring “or different”) in making the rejection. As such, the Examiner fails to make out a *prima facie* case for anticipation as each and every element of the claims has not been addressed. At best, *Shishido et al.* discloses a “same material” configuration for elastic body 13, (*see ¶ [0018]*). This is because *Shishido et al.* teaches single elastic bodies as explained above, and therefore would not envision the positively claimed features of, “wherein said first elastic body and said second elastic body comprise either the same or different thermosetting elastic rubber or thermoplastic elastomer materials.”

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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